

REMARKS/ARGUMENTS

Reconsideration and allowance in view of the foregoing amendment and the following remarks are respectfully requested.

Claims 1-11 are now pending.

Claims 1-3 and 7-9 were rejected under 35 USC 102(e) as being anticipated by Ren et al. Applicant respectfully traverses this rejection.

The Ren application for patent was filed on March 30, 2000, claiming the benefit of a provisional application filed October 13, 1999. It is respectfully submitted, however, that even if it is assumed for purposes of argument that the disclosure of Ren relied upon by the Examiner can be found in the Ren provisional application, that provisional application was filed after applicant's Japanese priority application was filed. In that regard, the present application is a divisional application of U.S. Application No. 10/141,443, filed May 9, 2002, which was in turn a division of Application No. 09/629,939, filed August 1, 2000, and claims the benefit of Japanese Appln. 11-224141, filed August 6, 1999. A verified translation of applicant's Japanese priority document is attached. It is respectfully submitted that the subject matter claimed is entitled to the benefit of the Japanese Patent Application, which provides the required disclosure to support the noted pending claims. Inasmuch as applicant is entitled to the benefit of the August 6, 1999 filing date, Ren does not constitute statutory prior art under 35 USC §102(e) with respect to applicant's invention. In view of the foregoing, withdrawal of the rejection of claims 1-3 and 7-9 based on the Ren reference is requested.

Claims 4-6 were rejected under 35 USC 103 as unpatentable over Ren in view of Foertsch. Applicant respectfully traverses this rejection.

As noted above, Ren does not constitute statutory prior art with respect to the subject matter claimed. It is therefore respectfully submitted that claims 4, 5 and 6 cannot properly be rejected based on Ren taken alone or when combined with the

Foertsch reference. It is therefore respectfully submitted that claims 4-6, like claims 1-3 and 7-9, is allowable over Ren.

Claims 1 and 7 were rejected under the judicially created doctrine of obvious-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,616,072 in view of Ren. For the reasons advanced above, Ren does not constitute statutory prior art so that the Examiner cannot properly reject claims 1 and 7, even under the judicially created doctrine of obvious-type double patenting, based on the earlier Harata patent in view of Ren.

Claim 4 was rejected under the judicially created doctrine of obvious-type double patenting as being unpatentable over claim 1 of Harata USP 6,616,072 in view of Foertsch. Applicant respectfully traverses this rejection. However, to advance prosecution, and without prejudice to traverse the Examiner's rejection based on the combination of Harata and Foertsch, a Terminal Disclaimer with respect to parent Patent No. 6,616,072 is attached. It is respectfully submitted that the Examiner's rejection has been mooted by this submission of this Terminal Disclaimer.

Claims 2, 3, 5 and 6 were rejected under the judicially created doctrine of obvious-type double patenting as being unpatentable over grandparent Patent No. 6,405,946. Applicant respectfully traverses this rejection. However, to advance prosecution, and without prejudice to traverse the Examiner's proposed combination of Harata and Foertsch, a Terminal Disclaimer with respect to grandparent Patent No. 6,405,946 is submitted herewith.

Claims 8 and 9 were rejected under the judicially created doctrine of obvious-type double patenting as being unpatentable over U.S. Patent No. 6,405,946 in view of Ren. As noted above, Ren does not constitute statutory prior art with respect to the invention claimed herein and, therefore, the Examiner's rejection based in part upon Ren cannot stand.

Attached is a Form PTO-1449 listing the enclosed documents.

The listed documents were cited in a Japanese Action issued in a counterpart foreign application.

The Rule 17(p) Official Fee required by Rule 97(c) in lieu of certification is filed herewith. Should that fee be missing or inadequate, please charge the deficiency to our Deposit Account No. 03-3975 under Order No. 2018-741.

This Information Disclosure Statement is intended to be in full compliance with the rules, but should the Examiner find any part of its required content to have been omitted, prompt notice to that effect is earnestly solicited, along with additional time under Rule 97(f), to enable Applicant to comply fully.

Consideration of the foregoing and enclosures plus the return of a copy of the herewith Form PTO-1449 with the Examiner's initials in the left column per MPEP 609 are earnestly solicited.

All objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance and an early Notice to that effect is earnestly solicited.

Respectfully submitted,

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